

Nadler Fights to Protect Private Library and Bookstore Records from Prying Eyes of the Government

Thursday, 12 May 2011

WASHINGTON, D.C. - Today, Congressman Jerrold Nadler (D-NY), the top Democrat on the House Judiciary Subcommittee on the Constitution, offered an amendment to H.R. 1800, the FISA Sunsets Reauthorization Act of 2011, in order to protect the privacy rights of Americans who patronize libraries and bookstores. The amendment, submitted during a Judiciary Committee markup, would make two changes to Section 215 of the USA PATRIOT Act: require law enforcement agencies seeking private records to prove the relevance of those records to combating terrorism; and enhance minimization procedures protecting U.S. citizens under investigation by federal authorities.

"Americans do not want the government looking at what they read," said Nadler. "It goes directly to our private views, our religious convictions, our health care concerns, the future of our families, what kinds of hobbies we have, where we get our information from, and all manner of information about every facet of our lives and beliefs. That is the hallmark of a police state, and it is simply too dangerous a power for us to give government."

The following is Nadler's statement from today's markup:

"Mr. Chairman, this amendment will provide the necessary safeguards to protect the personally identifiable information of patrons of libraries and booksellers from the documented abuses of section 215 orders issued under the USA PATRIOT Act.

"It does not - let me repeat that - it does not create a safe haven for terrorist suspects, or for agents of foreign powers, or any records in the possession of libraries or booksellers that pertain to foreign intelligence information not concerning a United States person, to protect against international terrorist or investigate clandestine intelligence activities.

"What it does require is that the government present 'a statement of specific and articulable facts showing that there are reasonable grounds to believe that the records sought are relevant to an authorized investigation (other than a threat assessment)' to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities. The personally identifiable information must pertain to a foreign power or an agent of a foreign power, be relevant to the activities of a suspected agent of a foreign power who is the subject of such an authorized investigation, or pertain to an individual in contact with, or known to, a suspected agent of a foreign power who is the subject of such authorized investigation.

"If granted, the order must contain a statement of proposed minimization procedures in compliance with current law. So, what does all that mean? The government may obtain personally identifiable information about what a person reads in books, digital media, and on the internet, provided it is part of an authorized investigation, and the government meets a clear standard. It allows legitimate investigations, but will screen out fishing expeditions.

"The current standard requiring 'a statement of facts showing that there are reasonable grounds to believe that the tangible things sought are relevant to an authorized investigation (other than a threat assessment)' is widely recognized as too weak. We have too much of a record of the misuse of these orders simply to ignore it. Of even greater concern is the extent to which - in the wrong hands - the existing vague standard can be abused secretly to spy on innocent Americans.

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"The legitimate uses of section 215 - to conduct foreign intelligence investigations and to make available information having to do with those authorized investigations - will be maintained under this amendment. It creates an appropriate balance, similar to a compromise crafted in the Senate.

"Most importantly, it will protect us from terrorism and from the prying eyes of Big Brother in to the most personal aspects of our lives. Americans don't want a thought police. This amendment will help insure that we don't give government the tools to become one."

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